

## **MINUTES**

### **KENTUCKY WORKERS' COMPENSATION MEDICAL ADVISORY COMMITTEE**

#### **INITIAL MEETING MAY 31, 2018**

The initial meeting of the Medical Advisory Committee was held on May 31, 2018, beginning at 2:00 p.m., in the Oscar Morgan Conference Room at the Department of Workers' Claims, 657 Chamberlin Avenue, Frankfort, Kentucky.

Committee members participating in-person were: Robert Swisher, Commissioner of the Kentucky Department of Workers' Claims; James Bean, M.D.; Scott Prince, M.D.; Richard Broeg, D.C. and G. Christopher Stephens, M.D.

Committee members attending via telephone conference were: Danesh Mazloomdoost, M.D.; Holly Johnson, DPT; and Stacie Grossfeld, M.D.

Commissioner Robert Swisher welcomed everyone to the meeting. He thanked all of the members for their willingness to participate and give of their time. He noted that the meeting is held in accordance with KRS 61.823(4)(a), the Open Meetings statute, and that notice of the meeting was published as required.

Commissioner Swisher introduced himself and allowed those in attendance to introduce themselves.

Dr. Broeg indicated that he has practiced chiropractic for 43 years, and lives in northern Kentucky. In the mid-1990s he participated in developing a fee schedule and protocols for back injuries and has been an advisor to insurance companies.

Dr. Stephens is an orthopedist from Lexington, Kentucky, who performs spinal surgeries and has practiced for 25 years.

Dr. Bean is a neurosurgeon from Lexington, Kentucky. He also travels to eastern Kentucky to see patients and many of those are workers' compensation patients. He served on the Health Policy Board in the mid-1990s that developed the protocols for back injuries.

Commissioner Swisher noted that Dr. Prince is chair of the Occupational Medicine Department at the University of Kentucky in Lexington. Dr. Mazloomdoost practices pain management in Lexington, Kentucky. Dr. Grossfeld practices in Louisville. Dr. Chinn is a pharmacist from Beaver Dam, Kentucky, and Dr. Johnson is a physical therapist practicing in London and Harlan, Kentucky.

Commissioner Swisher began discussion noting that this panel has been developed in response to House Bill 2 requiring the development of Medical Treatment

Guidelines and a Drug Formulary. Currently there are 1.9 million people who go to work every day in the state. These employees, along with the employers of Kentucky, are expecting this group to “get it right” in development of these guidelines.

Employees from the Kentucky Department of Workers’ Claims in attendance were: William Ransdell, Director of Specialists and Medical Services; Dale Hamblin, General Counsel; Robert Milligan, Deputy Commissioner; and Douglas Gott, Chief Administrative Law Judge.

Commissioner Swisher presented a PowerPoint presentation as an overall guide to include what is expected from this Medical Advisory Committee. He noted that KRS 342.020 is the statute requiring that an employer pay for the cure and relief from the effects of an injury or occupational disease as well as providing the necessary medical treatment reasonably required during the period of disability. House Bill 2, which becomes law effective July 14, 2018, changes the awards and entitlements granted to injured workers, and limits the length of time medical benefits are granted to 15 years, with some exceptions. On average, 83 people are injured each day at work in Kentucky. This Committee is charged with crafting a system to deliver medical benefits to injured workers via a Drug Formulary and Medical Treatment Guidelines.

Commissioner Swisher indicated that although the meetings are open to the public, no comments from the public would be taken today but will be accepted at future meetings.

House Bill 2 mandates that treatment guidelines be developed on or before December 31, 2019. The General Assembly has directed parameters be set for treatment including, but not limited to, chronic opioid use and pain management. Commissioner Swisher indicated that injured workers who miss seven or more days of work and are prescribed opioids, experience three times more lost work time than when a worker is not prescribed opioids. Dr. Bean noted that the Agency for Health Care Policy Research was disbanded in 1997. He noted that there is a need to analyze the extent of an injury of each worker in determining the duration of lost work time. He indicated that only looking at whether opioids are prescribed or not prescribed is not necessarily indicative of time off work without including the extent of each injury.

Dr. Broeg commented chronic pain management tends to mean opioid use but noted that there are other methods used to treat pain including, but not limited to, chiropractic, physical therapy, and acupuncture, all of which should be included when looking at chronic pain management methods. Commissioner Swisher noted that pain management is evolving and changing to include many methods. Dr. Mazloomdoost stated that one of the reasons he returned to Kentucky to practice is to get chronic pain management “back on track” because its reputation as treating with drugs only is incorrect.

Another section of House Bill 2 mandates that regulations for a Pharmaceutical Formulary be developed by December 31, 2018. Commissioner Swisher noted that 17% of all medical dollars spent in Kentucky is currently spent on drugs totaling \$26 million, and \$7 million of that is spent on opioids. Injured workers who are prescribed

medications that do not include opioids average 4.6 prescriptions, while injured workers who are prescribed opioids average 16.8 prescriptions. He noted, however, that these statistics do not factor in the extent of any injuries.

Dr. Prince came into the meeting at this time and introduced himself noting that he has worked at the University of Kentucky for 23 years in Occupational Medicine. He teaches clinical medicine.

Commissioner Swisher presented a brief outline of the process for the Medical Advisory Committee. He noted the Administrative Order signed by Acting Labor Secretary Michael J. Nemes establishing the Medical Advisory Committee. The function of the committee is to study formularies and treatment guidelines and provide expertise and advice to the Commissioner in development or adoption of the same. He encouraged transparency in the development process noting that the meetings are open. Information will be gained through meetings, presentations from outside entities and independent studies performed by the committee members. At the end of the process, a consensus on the recommendations for the substance of a Drug Formulary and Medical Treatment Guidelines will be developed, with the final decision of what is included falling to the Commissioner. He indicated that the committee's initial focus will be on development of the Drug Formulary since it has a deadline of December 31, 2018. The Drug Formulary is a part of the Treatment Guidelines, but will be done first due to the time constraints.

Goals and objectives of the committee include compliance with the statutory mandate of House Bill 2. Affording injured workers better treatment outcomes by focusing on best practices on the front end and fewer workers being prescribed opioids are two of the goals of the committee. The committee will also address the transition steps for legacy claims to bring them into compliance with the developed formulary and treatment guidelines. Commissioner Swisher also indicated that the guidelines will reduce friction between medical providers and the payers for treatment prescribed. He indicated that he has performed research of what other states have done in developing guidelines, noting that the primary goal is not to save money but to develop best practice guides. If properly developed, everyone involved will benefit from the process of getting an injured worker back to health.

Commissioner Swisher asked what should be added to the list of goals and objectives. Dr. Mazloomdoost stated that a fundamental change in approaching how pain is treated is needed.

Commissioner Swisher addressed the committee noting that there is a parallel process of rule-making and regulation. This Medical Advisory Committee is to determine the "substance" of the formulary and treatment guidelines, and a Regulatory Advisory Committee will develop the process for implementing the recommendations of the Medical Advisory Committee. While they could perform these tasks at the same time, the Commissioner believes that developing their respective formulas separately will be more time effective and practical.

A Drug Formulary is a list of prescription drugs. There are two types: an open formulary which is a list of all FDA approved prescription drugs with no indication of the status of any drug, and a closed formulary which is a list of all FDA approved prescription drugs with a drug status listed for each one. The Medical Advisory Committee will be developing a close formulary.

Considerations for development the Drug Formulary and Treatment Guidelines include the need for them to be evidence-based, ease of use/implementation and readability, cost to stakeholders, stakeholder input, the ability to track results, assistance with rule making and stakeholder education, and the ability to update as needed. There are options for development a Drug Formulary and Treatment Guidelines. There are commercially available guides from ODG and ACOEM, and there are jurisdiction-specific and customized guides developed by individual states. This committee will make a determination of which type of guide it feels will be best for the injured workers of Kentucky.

Commissioner Swisher showed the committee members a map of the states coded as to which ones have adopted commercially available guides, which have created their own guides, and which states have not yet developed guidelines. He also presented charts showing information gathered by NCCI on the percentage of the top ten drugs prescribed in Kentucky as well as the cost of the top ten drugs.

A discussion followed regarding the scheduling of future meetings for the committee. Commissioner Swisher noted that a quorum was required for each meeting. He indicated that he would reach out to other entities to schedule presentations by vendors, ODG and ACOEM officials, and directors and representatives from other states which have already developed guidelines in order for the committee to get as big a picture as possible on the different processes that have been used to create guidelines. He noted particularly that the states of Tennessee and Texas have done a great deal of work in developing their guidelines. Dr. Stephens indicated that he knows the medical director for the state of Tennessee's workers' compensation department, Dr. Snider, and felt he would be a very good candidate to address the committee. Commissioner Swisher indicated that all of the states he has researched have approached the issue of developing guidelines differently, but they all have the same goal of helping injured workers get back to their regular lives. He also indicated he would welcome input from the public.

Dr. Bean indicated he would be interested to know why some states adopted ODG and others ACOEM, as they are quite different. He also asked that once guidelines are adopted, how can they help in obtaining an initial evaluation and establishing treatment for an injured worker, noting that many workers are first seen by a general practitioner, and by the time they are scheduled to see a specialist to address their injury, a great deal of time has passed and the damage is done. He noted that getting prompt attention by a specialist is something the committee will need to address. Commissioner Swisher noted that one of the goals will be to streamline the substance and process of implementing medical care for the injured worker.

Dr. Broeg stated that he was very pleased with the approach Commissioner Swisher has taken in developing the process for the committee. He asked if any of the guidelines studied address black lung or chronic vs. data-specific injuries and conditions. Commissioner Swisher indicated that he was not aware of the extent that other states have addressed occupational diseases but would look into it. Dr. Prince noted that there are some federal guidelines on occupational diseases.

Commissioner Swisher again thanked all the members for attending the meeting. He moved to adjourn, seconded by Dr. Stephens. The meeting was adjourned at 3:15 p.m.